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Country of Origin Labeling Program
Room 2092-S
Agricultural Marketing Service
United States Department of Agriculture
Stop 0249
1400 Independence Avenue, SW
Washington, DC 20250-0249

Re: Docket #LS-03-04, Mandatory Country of Origin Labeling of Beef, Lamb, Pork, Fish, Perishable Agricultural Commodities, and Peanuts; Proposed Rule

The Durham Pecan Co., Inc., H.L. Dollins, President welcome this opportunity to comment on the implementation of a mandatory country of origin labeling program. In response to the Agricultural Marketing Service (AMS) interim guidance announced in the October 11, 2002, Federal Register.

Of greatest concern is the statement: "All peanuts, whether raw, roasted, in-shell, shelled, salted, seasoned, or canned are subject to these regulations unless they are an ingredient in a process food item." I continue to believe that this statement reflects the unjustified inconsistent treatment of processed peanuts, as opposed to the treatment of other process covered commodities. Peanuts that have undergone shelling, peeling, cooking, curing, seasoning, flavoring, and packaging historically have been considered "processed."

AMS should also limit its regulation to in-shell peanuts because other peanuts, such as shelled, roasted, and salted or flavored peanuts, clearly fit within the exemption for "an ingredient in a processed food item." AMS' definition of "processed" – and specifically, its application to peanuts – as explained in the Guidelines contradicts established definitions of "processing" and "processed foods" historically used by the United States Department of Agriculture (USDA) and the Food and Drug Administration (FDA).

Regrettably the Department of Agriculture thus far has interpreted the law to apply to canned and jarred roasted peanuts, including 1.5 million plus pounds of Durham Pecan Co., Inc. peanut products, despite the explicit statutory exemption for processed food items. Durham Pecan Co., Inc. contends that Durham Pecan Co., Inc. peanuts are processed by virtue of shelling and roasting. Country of Origin labeling will impose significant costs on our peanut snack products as a result of labeling changes, segregation, records maintenance and audit verification.

We believe these comments are valid and trust that AMS will take them into consideration at this time. We look forward to working with the agency on this issue, and thank you for your consideration.

Sincerely,

H.L. Dollins
President
Durham Pecan Co., Inc.